

Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191

218788

**James R. Paschall**  
**Senior General Attorney**

(757) 629-2759

March 9, 2007

**VIA DHL EXPRESS**

Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20024

**FILED**

MAR 13 2007

**SURFACE  
TRANSPORTATION BOARD**

Re: STB Docket No. AB-290 (Sub. No. 279X), Cincinnati, New Orleans and  
Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk  
Southern Railway Company – Abandonment - In Scott County, Tennessee–  
Notice of Exemption

Dear Mr. Williams:

Enclosed for filing with the Board in the captioned proceeding are an original and  
ten copies of the Notice of Exemption. Also enclosed is a check in the amount of  
\$3,100.00 to cover the filing fee.

Please acknowledge receipt on the enclosed copy of this letter and return it to me  
in the enclosed, self-addressed, stamped envelope.

Yours very truly,

James R. Paschall

JRP/kch  
Enclosures

**FEE RECEIVED**  
MAR 13 2007  
**SURFACE  
TRANSPORTATION BOARD**

**ENTERED**  
Office of Proceedings  
MAR 13 2007  
Part of  
Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 279X)

CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY,  
a wholly-owned subsidiary of  
NORFOLK SOUTHERN RAILWAY COMPANY

-- ABANDONMENT--

IN SCOTT COUNTY, TENNESSEE

VERIFIED NOTICE OF EXEMPTION

COMES NOW Cincinnati, New Orleans and Texas Pacific Railway Company ("CNOTP"), a wholly-owned subsidiary of Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U.S.C. §§ 10903, pursuant to the provisions of 49 U.S.C. § 10502 and 49 CFR § 1152.50, for abandonment of a line of railroad that consists of two contiguous segments lying between mileposts NR 215.30 and NR 218.60 and between mileposts NR 0.00 and NR 12.44, in Scott County, Tennessee.

Pursuant to the Board's regulations codified at 49 CFR § 1152.50, the Railroad states as follows:

ENTERED  
Office of Proceedings

MAR 13 2007

Part of  
Public Record

Traffic Certification - §§ 1152.50(b) and (d)(2)

As the attached certificate of General Manager G. R. Comstock confirms, no traffic has originated, terminated or moved overhead on this line segment for at least two years (or any overhead traffic on the line can be rerouted over other lines), and no complaint is pending with the Board or a U. S. District Court or has been decided in favor of a complainant concerning cessation of service over this line within the two-year period.

Consummation Date - § 1152.50(d)(2)

The effective date of the abandonment between mileposts NR 215.30 and NR 218.60 and between mileposts NR 0.00 and NR 12.44 in Scott County, Tennessee, will be May 1, 2007.

General Corporate Information - § 1152.22(a)(1-2) and (7)

The party filing this notice is Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, a common carrier by railroad subject to STB jurisdiction under the Interstate Commerce Commission Termination Act (Interstate Transportation Act) (49 U.S.C. Subtitle IV, Chapter 105), whose representative to whom correspondence may be sent is:

James R. Paschall  
Senior General Attorney  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510  
(757) 629-2759

Description of the Line and the Relief Sought - § 1152.22(a)(3-4 and 7)

The relief sought is an exemption from the prior approval requirements of 49 U.S.C. §10903 in order for CNOTP to abandon the subject line. The line that will be subject to abandonment under the exemption consists of two contiguous segments between mileposts NR 215.30 and NR 218.60 and between mileposts NR 0.00 and NR 12.44 in Scott County, Tennessee. A map showing the line to be abandoned, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Codes 37755 and 37841. The line includes the former stations of Helenwood, New River, Highway Jct., Pemberton, Hunter, Slick Rock, Brimstone and Sterling.

Suitability of the Line for Other Public Purposes - § 1152.22(e)(4)

CNOTP does not have fee title to the entire right-of-way underlying the line proposed for abandonment, therefore CNOTP will not have a contiguous corridor available for public use.

Labor Protection - § 1152.50(d)(2)

Since the line to be abandoned has been out of service for over two years, CNOTP believes no employees will be adversely affected by exercise of abandonment authority for this line. However, as a condition to exercise of the authority permitted in this matter, CNOTP will accept the imposition of standard labor protective conditions as set forth in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

Environmental and Historic Reports; Certifications - § 1105.7 and § 1105.8

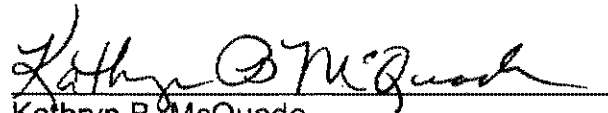
Attached are environmental and historical reports prepared and served in accordance with the Surface Transportation Board's regulations. CNOTP certifies that the notice and transmittal requirements of § 1105.7, § 1105.8 and § 1105.11 have been met.

Service and Newspaper Notice Requirements Certification - § 1152.50(d)(1-2)

As the attached certification indicates, CNOTP certifies that it has complied with the service and notice requirements of § 1152.50(d)(1)(certain government agencies) and § 1105.12 (newspaper notice).

For the foregoing reasons, CNOTP believes the proposed rail line abandonment is exempt from the prior approval requirements of 49 U.S.C. §§ 10903 pursuant to 49 C.F.R. § 1152.50 and requests that the Board serve the appropriate notice of exemption.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kathryn B. McQuade', is written over a horizontal line.

Kathryn B. McQuade

Vice President

Cincinnati, New Orleans and Texas

Pacific Railway Company,

a wholly-owned subsidiary of

Norfolk Southern Railway Company

Of Counsel:

James R. Paschall  
Senior General Attorney  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191  
(757) 629-2759


Attorney for Cincinnati, New Orleans and Texas Pacific Railway Company

Dated: March 9, 2007

VERIFICATION

COMMONWEALTH OF VIRGINIA :  
: SS:  
CITY OF NORFOLK :

Kathryn B. McQuade, being duly sworn, deposes and says that she is Vice President of Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company; that she is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-290 (Sub-No. 279X) on behalf of Cincinnati, New Orleans and Texas Pacific Railway Company; that she has carefully examined all of the statements contained in said Notice of Exemption; that she has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of her knowledge, information, and belief.

  
Kathryn B. McQuade

Subscribed and sworn to before me  
this 16<sup>th</sup> day of March, 2007.

  
Notary Public

My commission expires:

November 30, 2009

[SEAL]

CERTIFICATION

I hereby certify (1), pursuant to § 1105.11, that Environmental and Historic Reports were submitted to the agencies identified in § 1105.7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2); (2), pursuant to § 1105.12, that a notice of intent to abandon rail service was published in *Scott County News*, Oneida, Tennessee, on February 15, 2007 (see Exhibit 3); and (3) that the notice required by § 1152.50(d)(1) was given (see Exhibit 4).

  
James R. Paschall

Dated: March 9, 2007



## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Gerald. F. Nicely, Commissioner, Tennessee Department of Transportation; Sara Kyle, Chairman, Tennessee Regulatory Authority; U. S. Department of Agriculture, Chief of the Forest Service; Regional Director, National Park Service; Ms. Jan Matthews, Associate Director, U. S. Department of the Interior-National Park Service; and the United States Department of Defense (MTMCTEA); on March 9<sup>th</sup>, 2007, by first class mail, postage prepaid.



James R. Paschall

**CERTIFICATION**

STATE OF GEORGIA:

SS:

CITY OF ATLANTA:

G. R. Comstock makes oath and says that he is General Manager Western Region for Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company; that the line between milepost NR 215.30 (Helenwood) and milepost 218.60 (New River) and the line between milepost NR 0.00 (New River) and milepost 12.44 (Sterling) in Scott County, Tennessee, which are to be abandoned, are subject to his supervision and direction; that no local traffic has moved over the lines for at least two years, that no overhead traffic has moved over the lines for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the lines or a state or local government entity acting on behalf of such user regarding cessation of service over the lines either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.

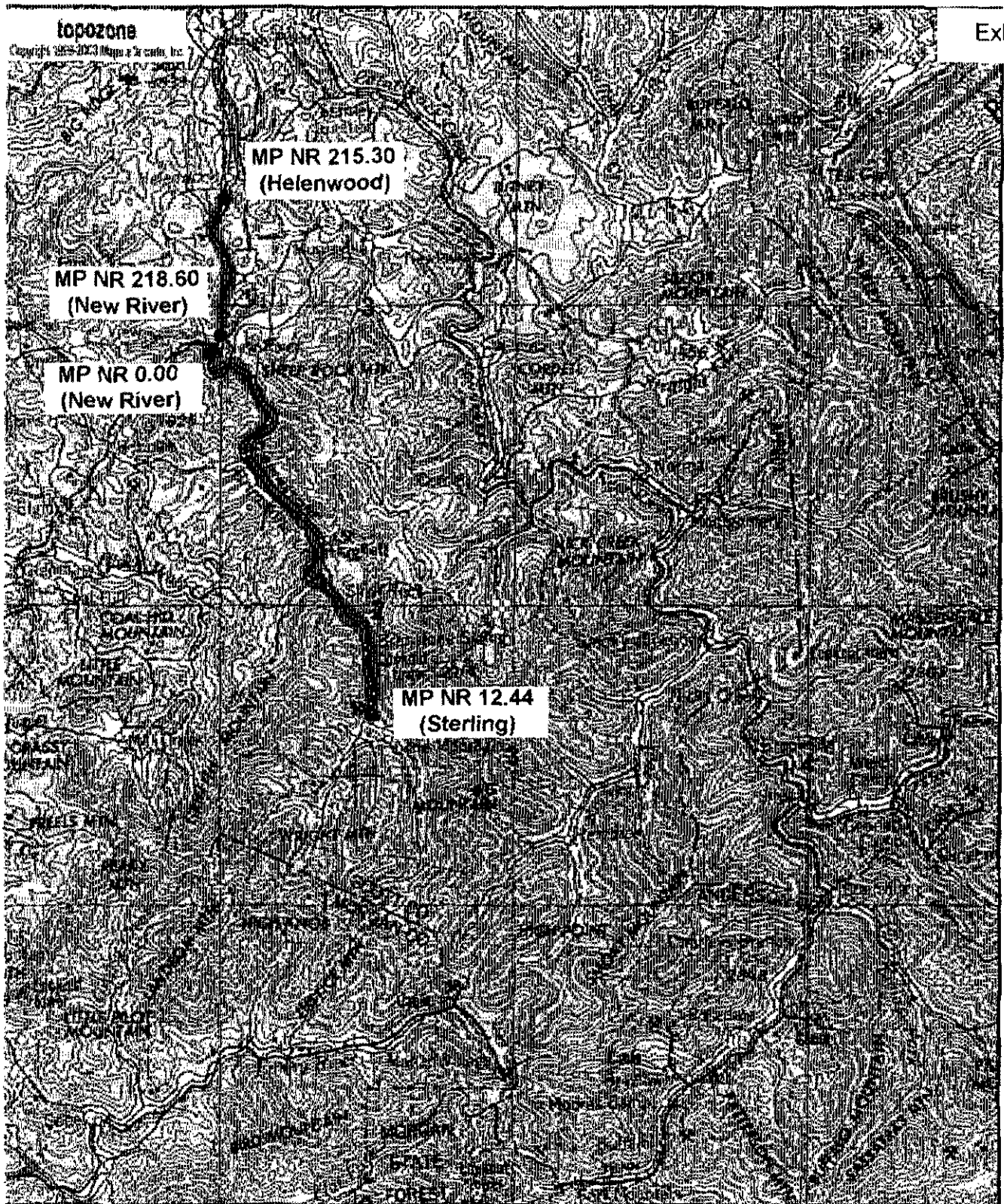
  
G. R. Comstock

Subscribed and sworn to before me  
this 8<sup>th</sup> day of MARCH, 2007.

  
Notary Public

My commission expires:

~~Notary Public, Fulton County, Georgia~~  
~~My Commission Expires June 9th 2008~~



Norfolk Southern  
Proposed Abandonment  
MP NR 215.30 (Helenwood)-MP NR 218.60 (New River)  
MP NR 0.00 (New River)-MP NR 12.44 (Sterling)  
Scott County, Tennessee

## **EXHIBIT 2**

### **ENVIRONMENTAL AND HISTORIC REPORTS**

**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY  
STB DOCKET NO. AB-290 (Sub-No. 279X)  
PROPOSED RAIL LINE ABANDONMENT**

**BETWEEN MP NR 215.30 AT HELENWOOD AND  
MP NR 218.60 AT NEW RIVER, TENNESSEE  
AND BETWEEN MP NR 0.00 AT NEW RIVER AND  
MP NR 12.44 AT STERLING, TENNESSEE**

**ENVIRONMENTAL REPORT**

January 10, 2007

.....  
**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY  
THREE COMMERCIAL PLACE  
NORFOLK, VIRGINIA 23510-9207**

**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC COMPANY  
STB DOCKET NO. AB-290 (Sub-No. 279X)**

**ENVIRONMENTAL REPORT ON  
PROPOSED RAIL LINE ABANDONMENT**

**49 CFR 1105.7(e)(1) Proposed Action and Alternatives.**

*Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.*

RESPONSE: The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, proposes to abandon two contiguous lines of railroad: 3.30 miles of rail line between railroad milepost NR 215.30 at Helenwood and railroad milepost NR 218.60 at New River and 12.44 miles of rail line between railroad milepost NR 0.00 at New River and railroad milepost NR 12.44 near Sterling in Scott County, Tennessee. The lines proposed for abandonment have been dormant for many years.

The proposed abandonment includes a 1.14 mile segment between railroad mileposts NR 11.30 and NR 12.44 which has long been out of service and now contains no track, bridges or other structures. No shippers were served on this segment, but rather it was used as tail room to perform switching of what was once the last customer on the line at railroad milepost NR 11.30. It is not known when the track and structures were removed, however, the abandonment will not require any further salvage or other

disturbance of the right-of-way. There is no record that abandonment authority was ever formally sought over this 1.14 mile segment; therefore, it is being included with this abandonment filing.

The only alternatives would be not to abandon the lines or to discontinue service on the lines and retain the track in place. These alternatives are not satisfactory. Service over the lines is not required to serve any shippers. CNOTP would incur opportunity and holding costs that would be absorbed by other customers were the lines to be retained without being used for active rail freight service.

Maps delineating the lines proposed for abandonment are attached as **Appendix A**. CNOTP's letter to federal, state and local government agencies is attached as **Appendix B**. Responses to the letter or other comments received as a result of consultations can be found in **Appendix C**.

#### **49 CFR 1105.7(e)(2) Transportation system.**

*Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.*

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. There is no rail freight or passenger traffic on the line segments proposed for abandonment. Consequently, no rail traffic will be diverted to highway or other modes as a result of the abandonment.

**49 CFR 1105.7(e)(3) Land use.**

*(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

RESPONSE: An outline of future land use plans was requested from the Mayor of Scott County. This official was also asked to comment on the consistency of the proposed abandonment with existing land use plans. The Mayor advised that Scott County was opposed to the proposed abandonment, as it would prefer to see the lines resume operation. This correspondence is attached in **Appendix C**.

*(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.*

RESPONSE: The United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS) advises that the project will have no adverse effects on adjacent farmlands, prime or other. A copy of the response received from the USDA-NRCS is included in **Appendix C**.

*(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.*

RESPONSE: Not Applicable, as the property is not located in a coastal zone.

*(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.*

RESPONSE: CNOTP does not have fee title to the entire right of way underlying the lines proposed for abandonment, therefore CNOTP will not have a contiguous corridor available for public use.



**49 CFR 1105.7(e)(4) Energy.**

*(i) Describe the effect of the proposed action on transportation of energy resources.*

RESPONSE: Development and transportation of energy resources will not be affected by the abandonment as no freight or passenger traffic has moved over the lines for many years.

*(ii) Describe the effect of the proposed action on recyclable commodities.*

RESPONSE: Movement or recovery of recyclable commodities will not be affected by the abandonment as no freight or passenger traffic has moved over the lines for many years.

*(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.*

RESPONSE: The proposed action will not result in an increase or decrease in overall energy efficiency.

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than:  
(A) 1,000 rail carloads a year; or  
(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

RESPONSE: No traffic will be diverted from rail to motor carriage as a result of the proposed action.

**49 CFR 1105.7(e)(5) Air.**

*(i) If the proposed action will result in either:*

*(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or*

*(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or*

*(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.*

RESPONSE: The above thresholds will not be exceeded.

*(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:*

*(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,*

*(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or*

*(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.*

RESPONSE: The above thresholds will not be exceeded. Scott County,

Tennessee is in attainment for all National Ambient Air Quality Standard (NAAQS)

pollutants according to the U.S. Environmental Protection Agency.

*(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.*

RESPONSE: Not applicable.

**49 CFR 1105.7(e)(6) Noise.**

*If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:*

- (i) An incremental increase in noise levels of three decibels Ldn or more; or*
- (ii) An increase to a noise level of 65 decibels Ldn or greater.*

*If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.*

RESPONSE: The above thresholds will not be exceeded.

**49 CFR 1105.7(e)(7) Safety.**

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

RESPONSE: Abandonment of the captioned rail lines will have no significant effect upon public health or safety. Moreover, the closing of the remaining at-grade crossings on the segments to be abandoned and salvaged enhances public safety by eliminating distractions to vehicular traffic crossing the lines. A list of the crossings on the line segments is provided in **Appendix D**.

- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.*

RESPONSE: Not applicable.

- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

RESPONSE: NSR has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right of way or in adjacent areas.

**49 CFR 1105.7(e)(8) Biological Resources.**

*(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*

RESPONSE: A consultation was requested from the U.S. Fish and Wildlife Service (USFWS) and the Tennessee Wildlife Resources Agency (TNWRA) to ascertain any impacts to surrounding habitats and species. The response of USFWS states that no significant adverse impacts to wetlands or federally listed endangered or threatened species are anticipated. TNWRA advises that the State Threatened Fish, the ashly darter (*Etheostoma cinereum*), which is intolerant to silt, had been documented in Brimstone Creek, and recommends stringent adherence to measures for the prevention of silt from entering Brimstone Creek during salvage operations. These responses are attached in **Appendix C**,

*(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

RESPONSE: Based on the site investigation, the line segments proposed for abandonment do not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, National Parks or Forests, or State Parks or Forests are anticipated.

**49 CFR 1105.7(e)(9) Water.**

*(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.*

RESPONSE: There are no plans to remove or alter the contour of the roadbed underlying any part of the rail lines to be abandoned. Since there are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, water quality impacts are not expected in connection with the proposed action. Consultation has been requested from the Tennessee Department of Environment and Conservation, Division of Water Pollution Control and from the United States Environmental Protection Agency.

*(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.*

RESPONSE: The geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consequently, NSR does not believe a Section 404 permit will be required.

The US Army Corps of Engineers (USACE) advises in a response attached in **Appendix C** that a permit would not be required as the work would not impact the waters of the U.S., including wetlands, with deposition of fill or dredged material.

*(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.*

RESPONSE: There are no intentions to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or to use any fill materials. There should be no significant effects to water quality. Thus, NSR does not believe that a permit under Section 402 of the Clean Water Act will be required.

The US Environmental Protection Agency advises that it appears that this activity is not subject to National Pollution Discharge Elimination System (NPDES) permitting requirements, but that the response received from the Tennessee Department of Environment and Conservation (TNDEC) should be relied upon for a final determination in this matter. Copies of this correspondence are attached in **Appendix C**.

#### **49 CFR 1105.7(e)(10) Proposed Mitigation.**

*Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

RESPONSE: Abandonment of the involved rail lines is not expected to produce adverse environmental impacts. Only minimal physical activity may occur, such as removal of rail, ties, and other railroad appurtenances. NSR will undertake all reasonable mitigation associated with these activities to assure the abandonment does not produce adverse environmental impacts.

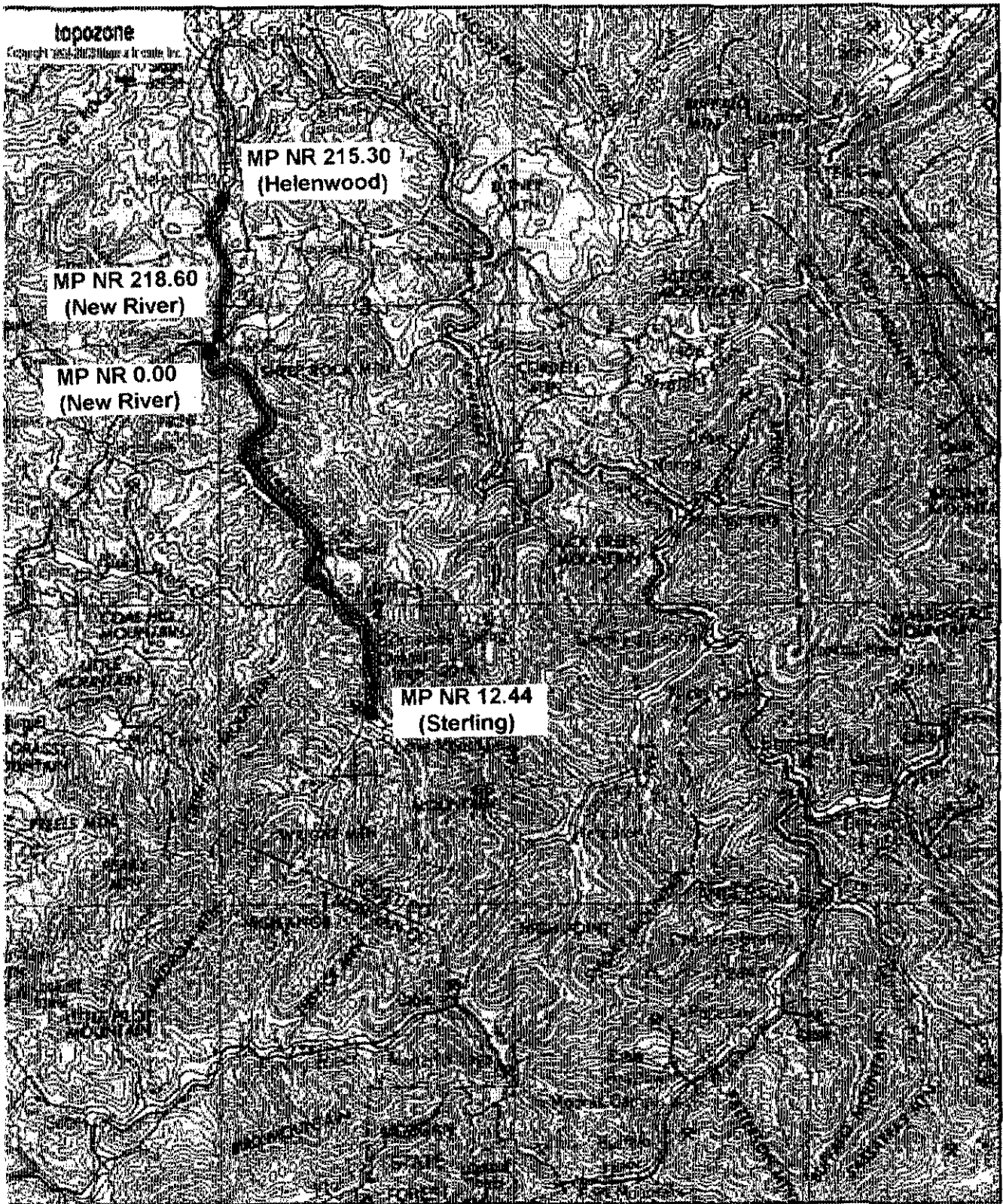
### **Additional Information - National Geodetic Survey Marker**

Attached in **Appendix C** is a response from the National Geodetic Survey (NGS) in connection with a prior report that states there are two NGS markers that may be affected by the proposed abandonment. CNOTP will provide NGS notice of any salvage activities which would disturb these markers.

# **APPENDIX A**

## **Site Map**





Norfolk Southern  
Proposed Abandonment  
MP NR 215.30 (Helenwood)-MP NR 218.60 (New River)  
MP NR 0.00 (New River)-MP NR 12.44 (Sterling)  
Scott County, Tennessee

# **APPENDIX B**

## **Agency Letters**

## RECIPIENT LIST

**Proposed Rail Line Abandonment of the segment of rail line between MP NR 215.30 and MP NR 218.60, and between MP NR 0.00 and MP NR 12.44 a total distance of 15.74 miles, located in Scott County, Tennessee.**

Tennessee State Planning Office  
500 Charlotte Avenue  
309 John Sevier Building  
Nashville, TN 37219

Mayor Ricky A. Keeton  
Scott County  
P. O. Box 180  
Huntsville, Tennessee 37756

Paul E. Davis, P.E.  
Director Division of Water Pollution Control  
Department of Environment and Conservation  
6th Floor, L&C Annex  
401 Church Street  
Nashville, TN 37243-1534

Mr. Bradley Denton  
District Conservationist  
Jackson Service Center  
United States Department of Agriculture  
Madison City AG Complex,  
313 N Parkway  
Jackson, TN 38305

National Park Service  
Southeast Region  
100 Alabama Street SW  
Atlanta, GA 30303

Field Supervisor  
United States Fish and Wildlife Service  
446 Neal Street  
Cookeville, TN 38506

Ms. Christie Hopper  
Tennessee Wildlife Resources Agency  
P. O. Box 40747  
Nashville, TN 37204

Mr. James W. Ford  
State Conservationist  
United States Department of Agriculture, Natural  
Resource Conservation Service  
675 U.S. Courthouse  
801 Broadway  
Nashville, TN 37203

Mr. Larry D. Watson  
U.S. Army Engineer District, Memphis  
B-202 Clifford Davis Federal Building  
167 North Main Street  
Memphis, TN 38103-1854

Mr. Roosevelt Childress  
Chief, United States Environmental Protection  
Agency  
Sam Nunn Atlanta Federal Center  
Atlanta, GA 30303-3104

Mr. Rob Holland, CESAD-PA  
United States Army Corps of Engineers  
South Atlantic Division  
60 Forsyth Street SW Room 9M15  
Atlanta, GA 30303-8801

Mr. Richard Snay  
Chief of Spatial Reference System Division  
National Geodetic Survey  
1315 East/West Highway, Room 8813  
Silver Spring, MD 20910



Strategic Planning Department  
Three Commercial Place  
Norfolk, VA 23510-9207

January 10, 2007

RE: Docket No. AB-290 (Sub-No. 279X), The Cincinnati, New Orleans and Texas  
Pacific Railway Company - Abandonment – in Scott County, Tennessee

Dear Sir/Madam:

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, plans to request authority from the Surface Transportation Board (STB) to abandon two contiguous lines of railroad: 3.30 miles of rail line between railroad milepost NR 215.30 at Helenwood and railroad milepost NR 218.60 at New River and 12.44 miles of rail line between railroad milepost NR 0.00 at New River and railroad milepost NR 12.44 at Sterling in Scott County, Tennessee.

Enclosed is an Environmental Report which describes the proposed abandonment and other pertinent information. Maps of the proposed track abandonment can be found in Appendix A of this report.

CNOTP does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in an Environmental Report and sent to the Surface Transportation Board. Appendix B of this report lists the various agencies receiving it.

This report is also being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 565-1552 or by mail to:

Surface Transportation Board,  
1925 K Street, N.W., Room 3219  
Washington DC 20423-001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to Kathy Headrick by email at [kathy.headrick@nscorp.com](mailto:kathy.headrick@nscorp.com), or by mail to:

Kathy Headrick  
Coordinator-Abandonments  
Strategic Planning Department  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510

Sincerely,



Marcellus C. Kirchner  
Director Strategic Planning  
The Cincinnati, New Orleans and Texas Pacific Railway Company

# **Appendix C**

## **Agency Responses**

## Office of County Mayor

Ricky A. Keeton  
2845 Baker Highway  
P.O. Box 180  
Huntsville, TN 37756



(423) 663-2000  
(423) 663-2355  
Fax (423) 663-3803  
scottexec@highland.net

June 20, 2006

Donna Braun  
Norfolk Southern  
3 Commercial Place  
12 Floor – Strategic Planning  
Norfolk, VA 23510

RE: Docket No AB-290 (Sub-No. 279X), Norfolk Southern Railway  
Company Abandonment – in Scott County, Tennessee

This letter is in reply to the proposed abandonment of two segments of rail line in Scott County per the above referenced docket number.

Scott County would like to go on record to oppose the abandonment of the two segments of rail line between Helenwood and Sterling, which total approximately 14.6 miles of rail line.

It has, and continues to be, in the long range plans of Scott County to eventually see the rail line re-opened to serve the coal, timber, and recreational interests of the Brimstone area in the southern part of Scott County.

As a matter of record to support Scott County's long range plans please refer to the recent purchase from Norfolk Southern of the Oneida to Devonia rail line in Scott County by National Coal Corporation (NC Railroad). National Coal will have this line ready for operation by July 1, 2006, at which time they will begin to haul coal from their mining operation to Oneida for transport over Norfolk Southern lines to their coal purchasers.

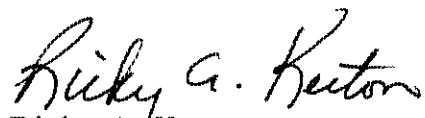
Also, with the support and assistance of National Coal, a local organization – The Friends of the Big South Fork – will begin an excursion train ride on the Oneida – Devonia line by this fall. This will provide a tremendous economic tourism benefit to Scott County.

In summary, the long range planning for Scott County would follow the success on the Helenwood to Sterling rail line.

In summary, based on the recent success of the above Oneida-Devonia line, Scott County's long range plan to see the Helenwood to Sterling rail line re-opened to serve coal, timber, and recreation businesses seems quite possible. The County does not want to see this line abandoned because it would greatly impair future economic development.

Thank you for your consideration of our request to maintain this rail line segment. If you need to discuss our matter in further detail feel free to contact me at any time.

Sincerely,

A handwritten signature in cursive script that reads "Ricky A. Keeton".

Ricky A. Keeton  
Scott County mayor





Natural Resources Conservation Service  
235 Oil Well Road  
Jackson, Tennessee 38305

---

Date: June 20, 2006

Ms. Donna Braun  
Norfolk Southern  
3 Commercial Place  
12<sup>th</sup> Floor-Strategic Planning  
Norfolk, VA 23510

Re: Docket No AB-290 (Sub-No. 279X), Norfolk Southern Railway Company  
Abandonment-in Scott County, Tennessee

Dear Ms. Braun:

In response to your request for the impact on prime farmland in the area of the above-mentioned project, the following is my report.

Upon reviewing the maps and your proposed project of abandonment, the nature of the project will have no adverse effects on adjacent farmlands, prime or other.

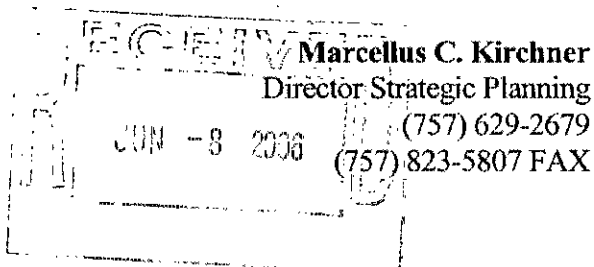
If you have any additional questions please contact me at (731) 668-0700.

Charles L. Davis  
Resource Soil Scientist

cc: Clarence Conner, Resource Soil Scientist / Clinton, Tennessee



Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191



June 5, 2006

Field Supervisor  
United States Fish and Wildlife Service  
Tennessee Field Office  
446 Neal Street  
Cookeville, TN 38506

No significant adverse impacts to wetlands or federally listed endangered or threatened species are anticipated from this proposal.

*Leah Barclay*  
Field Supervisor  
U.S. Fish and Wildlife Service  
Cookeville, TN 38501

*6/15/06*  
Date

RE: Docket No AB-290 (Sub-No. 279X), Norfolk Southern Railway Company  
Abandonment - in Scott County, Tennessee

Dear Sir or Madam:

Norfolk Southern Railway Company is considering the abandonment of two contiguous segments of rail line between Helenwood and Sterling located in Scott County, Tennessee. The first segment of rail line is approximately 3.3 miles between Milepost NR 215.3 and Milepost NR 218.6 between Helenwood and New River. The adjacent segment is approximately 11.3 miles of rail line between Milepost NR 0.0 and Milepost NR 11.3 between New River and Sterling. Maps are included delineating the area under consideration.

Should Norfolk Southern abandon the rail segment, the approval of the Surface Transportation Board is required. In addition, Federal Regulations 49 C.F.R. 1105.7 (8i) and (8ii) require Norfolk Southern to address the following statements:

- (i) "Based on consultation with the U.S. Fish and Wildlife Service state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects."
- (ii) "State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects."

During the removal of track and materials, Norfolk Southern does not anticipate the use of any new access roads, the need to conduct dredging, or the use of fill. Only existing public and private access roads and the Norfolk Southern right of way should be needed to facilitate operations. In addition, the underlying roadbed will not be disturbed. During salvage operations, Norfolk Southern will take all measures to prevent and/or control the occurrence of spills or of any pollutants from entering surrounding waterways. Finally, any debris or other material will be removed from the area, preventing any of the material from entering waterways.

Norfolk Southern believes that our actions will not adversely impact any endangered or threatened species and their habitats or wildlife sanctuaries and parks; however would



## TENNESSEE WILDLIFE RESOURCES AGENCY

ELLINGTON AGRICULTURAL CENTER  
P. O. BOX 40747  
NASHVILLE, TENNESSEE 37204

June 29, 2006

Ms. Donna Braun  
Norfolk Southern  
3 Commercial Place  
12<sup>th</sup> Floor – Strategic Planning  
Norfolk, VA 23510

Dear Ms. Braun:

RE: Docket No AB-290 (Sub-No. 279X), Norfolk Southern Railway Company  
Abandonment – Scott County, Tennessee

Thank you for your correspondence requesting our review and comments on this proposed project. We wish to inform you that the State Threatened fish, the ashy darter (*Etheostoma cinereum*), had been documented in Brimstone Creek which is crossed by the existing rail line. This species is intolerant to silt. We recommend stringent adherence to measures for the prevention of silt from entering into Brimstone Creek as a result of this project during salvage operations.

Thank you for the opportunity to review and comment on this project.

Sincerely,

Robert M. Todd  
Fish and Wildlife Environmentalist



DEPARTMENT OF THE ARMY  
NASHVILLE DISTRICT, CORPS OF ENGINEERS  
3701 Bell Road  
NASHVILLE, TENNESSEE 37214

June 26, 2006

REPLY TO  
ATTENTION OF:  
Regulatory Branch

SUBJECT: File No. 2006-01331; Proposed Abandonment of Railway Segment Helenwood to Sterling Between Milepost NR 215.3 - Milepost NR 218.6 and New River to Sterling Between Milepost NR 0.0 - and Milepost 11.3, Scott County, Tennessee

Ms. Donna Braun (via email/fax)  
Norfolk Southern  
3 Commercial Place  
12<sup>th</sup> Flr. Strategic Planning  
Norfolk, VA 23510

Dear Ms. Braun:

This is in response to your letter dated June 5, 2006 requesting our review/comments of the subject proposal.

Based on the information provided, the work would not impact waters of the U.S., including wetlands, with deposition of fill or dredged material. **Therefore, a permit would not be required.**

We appreciate your awareness of our regulatory program. If you have any questions, you can contact me at the above address, telephone (615) 369-7518, or by email at deborah.s.tuck@usace.army.mil.

Sincerely,

Deborah T. Tuck  
Regulatory Specialist  
Operations Division

Copy Furnished:

CELNRN-MCA-DAL/R, R. Smith



DEPARTMENT OF THE ARMY  
NASHVILLE DISTRICT, CORPS OF ENGINEERS  
3701 Bell Road  
NASHVILLE, TENNESSEE 37214

January 31, 2007

REPLY TO  
ATTENTION OF:

Regulatory Branch

SUBJECT: File No. 2006-4044; Proposed Abandonment of Railway  
Segments Between Helenwood and New River and on to Sterling,  
Scott County, Tennessee

Mr. Marcellus C. Kirchner  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510-2191

Dear Mr. Kirchner:

This is in response to your letter dated June 5, 2006,  
received in our office December 4, 2006, requesting our  
review/comments of the subject proposal for the Norfolk Southern  
Railway Company.

Based on the information provided, the work would not impact  
waters of the U.S., including wetlands, with deposition of fill  
or dredged material. **Therefore, a permit would not be required.**

We appreciate your awareness of our regulatory program. If  
you have any questions, you can contact me at the above address,  
telephone (615) 369-7518, or by email at  
[deborah.s.tuck@usace.army.mil](mailto:deborah.s.tuck@usace.army.mil).

Sincerely,

/s/  
Deborah T. Tuck  
Regulatory Specialist  
Operations Division

Copy Furnished:

CELRN-OP-F/E, Elliott



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 22 2006

Donna Braun  
Norfolk Southern Corp.  
3 Commercial Place  
12<sup>th</sup> Floor - Strategic Planning  
Norfolk, VA 23510

SUBJ: Docket No. AB-290 (Sub-No. 279X)

Dear Ms. Braun:

This letter is in response to Mr. Marcellus C. Kirchner's letter of June 5, 2006, requesting comments from the Environmental Protection Agency (EPA) on the abandonment two contiguous segments of rail line between Helenwood and Sterling located in Scott County, Tennessee. The rail line segments are:

- approximately 3.3 miles between Milepost NR 215.3 and Milepost NR 218.6 between Helenwood and New River
- approximately 11.3 miles of rail line between Milepost NR 0.0 and Milepost NR 11.3 between New River and Sterling

Please be aware that these activities would be subject to the requirements of the Clean Water Act (CWA) if, in the process of dismantling the track at either site, one or more acres of land are disturbed by clearing, grading or excavation and if storm water discharges from this disturbance enter either a surface water body, by direct conveyance (pipe, ditch, etc.), or through a municipal separate storm sewer system. Based on the information provided in Mr. Kirchner's letter, it appears that these activities are not subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements. The State of Tennessee Department of Environment and Conservation has been authorized to implement the NPDES permit program, under Section 402 of the CWA. Please rely on the response you receive from the State for a final determination in this matter.

If EPA can be of further assistance to you in this matter, please contact me.

Sincerely,

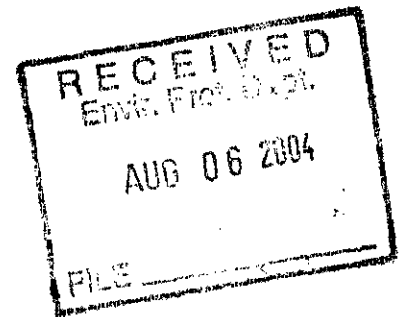
Roosevelt Childress, Chief  
NPDES and Biosolids Permits Section  
Permits, Grants and Technical Assistance Branch

cc: Ed Polk, Tennessee Department of Environmental Health 38



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
National Geodetic Survey  
Silver Spring, Maryland 20910-3282

JUL 28 2004



Ms. Victoria J. Rutson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of the Cincinnati, New Orleans & Texas Pacific Railway Company for 11.3 miles of rail line between MP NR 0.0 and MP NR 11.3 from New River to Sterling, Scott County, Tennessee, STB Docket No. - Not Available, has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 2 geodetic station markers have been identified that may be affected by the proposed abandonment; a listing of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-ROM. A fact sheet for these two data retrieval methods is enclosed. If there are any planned activities which will disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

If further information is needed for these geodetic markers, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

Richard A. Snay  
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell  
Larry G. Western, Norfolk Southern Railway Co.



THE CINCINNATI, NEW ORLEANS & TEXAS PACIFIC RAILWAY COMPANY

BETWEEN NEW RIVER AND STERLING

IN SCOTT COUNTY, TENNESSEE

DOCKET NO. - NOT AVAILABLE

2 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
GB0928	TT 22 E	N362249	W0843306
GB0929	E 197	N362258	W0843255



## Appendix D

### Public At-Grade Crossings

Location	Milepost	Lat/Lon
Brimstone Road	NR 4.09	LAT: 35.34298 LON: -84.53512
Brimstone Road	NR 6.62	LAT: 35.31295 LON: -84.51421
Indian Fork Road	NR 6.74	LAT: 36.31211 LON: -84.51619
Brimstone Road	NR 8.56	LAT: 36.30179 LON: -84.50466
Griffith Road	NR 9.44	LAT: 36.29628 LON: -84.49318

## **Environmental Report Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-290 (Sub-No. 279X) was mailed via first class mail on January 10, 2007, to the following parties:

Tennessee State Planning Office  
500 Charlotte Avenue  
309 John Sevier Building  
Nashville, TN 37219

Mayor Ricky A. Keeton  
Scott County  
P. O. Box 180  
Huntsville, Tennessee 37756

Paul E. Davis, P.E.  
Director Division of Water Pollution Control  
Dept. of Environment and Conservation  
6th Floor, L&C Annex  
401 Church Street  
Nashville, TN 37243-1534

Mr. Bradley Denton, District Conservationist  
Jackson Service Center  
United States Department of Agriculture  
Madison City AG Complex,  
313 N Parkway  
Jackson, TN 38305

National Park Service  
Southeast Region  
100 Alabama Street SW  
Atlanta, GA 30303

Field Supervisor  
United States Fish and Wildlife Service  
446 Neal Street  
Cookeville, TN 38506

Ms. Christie Hopper  
Tennessee Wildlife Resources Agency  
P. O. Box 40747  
Nashville, TN 37204

Mr. James W. Ford  
State Conservationist  
U.S. Department of Agriculture  
Natural Resource Conservation Service  
675 U.S. Courthouse  
801 Broadway  
Nashville, TN 37203

Mr. Larry D. Watson  
U.S. Army Engineer District, Memphis  
B-202 Clifford Davis Federal Building  
167 North Main Street  
Memphis, TN 38103-1854

Mr. Roosevelt Childress, Chief  
U.S. Environmental Protection Agency  
Sam Nunn Atlanta Federal Center  
Atlanta, GA 30303-3104

Mr. Rob Holland, CESAD-PA  
United States Army Corps of Engineers  
South Atlantic Division  
60 Forsyth Street SW Room 9M15  
Atlanta, GA 30303-8801

Mr. Richard Snay  
Chief of Spatial Reference System Division  
National Geodetic Survey  
1315 East/West Highway, Room 8813  
Silver Spring, MD 20910



---

Marcellus C. Kirchner

January 10, 2007

**HISTORIC REPORT**  
**PROPOSED RAIL LINE ABANDONMENT**

**PROPOSED ACTION AND ALTERNATIVES**

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, proposes to abandon two contiguous lines of railroad: 3.30 miles of rail line between railroad milepost NR 215.30 at Helenwood and railroad milepost NR 218.60 at New River and 12.44 miles of rail line between railroad milepost NR 0.00 at New River and railroad milepost NR12.44 near Sterling in Scott County, Tennessee. The lines proposed for abandonment have been dormant for many years.

The proposed abandonment includes a 1.14 mile segment between railroad mileposts NR 11.30 and NR 12.44 which has long been out of service and now contains no track, bridges or other structures. No shippers were served on this segment, but rather it was once used as tail room to perform switching of a customer once located at railroad milepost NR 11.30. It is not known when the track and structures were removed, however, the abandonment will not require any further salvage or other disturbance of the right-of-way. There is no record that abandonment authority was ever formally sought over this 1.14 mile segment; therefore, it is being included with this abandonment filing.

A map delineating the lines proposed for abandonment is attached as **Appendix "A"**.

The only alternatives would be not to abandon the lines or to discontinue service on

the lines and retain the track in place. These alternatives are not satisfactory. Service over the lines is not required to serve any shippers. CNOTP would incur opportunity and holding costs that would be absorbed by other customers were the lines to be retained without being used for active rail freight service.

#### **ADDITIONAL INFORMATION**

- (1) **U.S.G.S. Topographic Map** -- Maps were furnished to the Tennessee Historical Commission.
- (2) **Written Description of Right of Way** -- The right of way width is generally 50 feet on each side of the main track centerline between mileposts NR 215.3 and NR 218.6 and 25 feet on each side of the main track centerline between mileposts NR 0 and NR 11.3. The line passes primarily through undeveloped areas.
- (3) **Photographs** -- Photographs were furnished to the Tennessee Historical Commission and copies are attached to this report in **Appendix B**.
- (4) **Date of Construction of Structures** -- Construction dates are shown on the Bridges and Structures Listing attached to this report in **Appendix C**.
- (5) **History of Operations and Changes Contemplated** --The line segment between mileposts NR 215.30 and NR 218.60 is a part of the Cincinnati Southern Railway, which was built by the City of Cincinnati pursuant to authority granted by an act of the General Assembly of Ohio, passed and in effect May 4, 1869. Construction began about four and a half years later and work was completed during the winter of 1879-1880. As reported in an article in the October 1966 issue of *Ties*, the Southern Railway System Magazine, entitled *When Cincinnati Looked South*:

The winter of 1879-1880 saw the road completed and opened to traffic. Workmen spiked the last rail in place near the center of Tunnel No. 15, just north of Robbins, Tennessee, On December 10, 1879. In mid-February of 1880 the contractors released the last of the line near Boyce, Tennessee, as ready for traffic.

It would appear, then, that the Cincinnati Southern segment which is the subject of this abandonment was completed around December, 1879.

The City's purpose in building the 336 mile railroad was to obtain a railroad link of its own with Chattanooga and southern points beyond, to carry its commerce all the way to the southeastern seaboard and the Gulf of Mexico. Cincinnati had been faced with the problem of the Ohio River boats from the east steaming past the city in favor of unloading at Louisville, Kentucky, where railroads waited to speed the freight on into the South. By the end of the Civil War the City's trade position had worsened. The solution lay in the construction of the city-owned railroad.

The May 4, 1869 Act of the General Assembly of Ohio provided for the creation and perpetuation of a Board of Trustees to take charge of the affairs of the railway. Following completion of the line, CNOTP, on October 11, 1881, was awarded the permanent lease for a term of 25 years and has since that date operated the line continuously. CNOTP's lease with the City was last modified in 1987 and now extends through December 31, 2026 with an extension option through 2051.

The line segment between mileposts NR 0.00 at New River and NR 11.30 at Sterling, Tennessee was originally the Brimstone Railroad. The Brimstone Railroad was constructed by the W.M. Ritter Company and operated as a private carrier after it bought the New River Lumber Company. The main line of the railroad followed the Brimstone Creek bottom land to Long Mountain. Its course from Slick Rock was

paralleled by the earlier Knoxville and New River Railroad. The railroad served the mill as a logging railroad and it pulled coal cars out of Hughett and Lone Mountain.

In January 1942, the Interstate Commerce Commission authorized the Brimstone Railroad to operate as a common carrier in Finance Docket No. 13397, *Brimstone Railroad Company Acquisition and Operation*, 252 ICC 123. Brimstone was incorporated in Tennessee on June 9, 1941.

In 1965, the Brimstone was abandoned pursuant to ICC authorization in Finance Docket No. 23017, *Brimstone Railroad Company Abandonment of Entire Line in Scott County, Tenn.*, December 16, 1964. CNOTP subsequently formed a wholly-owned subsidiary, New River Railway Company, which acquired the physical properties of the abandoned Brimstone Railroad Company and commenced operations as a common carrier on March 31, 1966. This transaction was approved by the ICC May 10, 1965 in Finance Docket Nos. 23494, 23495 and 23496, *New River Railway Co. Acquisition and Operation in Scott County, Tenn., etc.*

In 1968, CNOTP sought authorization from the ICC to discontinue its operation over that portion of the Cincinnati Southern Railway between Helenwood and New River, Tennessee, and New River Railway sought authorization to sublease and operate that line segment extending between Helenwood and New River. CNOTP also sought authorization to physically abandon the line of railroad between New River and Robbins, Tennessee. In 1963 CNOTP had ceased using the former segment between Helenwood and Robbins once a new track on a different alignment had been constructed. The new alignment included a replacement bridge across the New River approximately a mile upstream from the old bridge. The new bridge is 1,618 feet long

and rises 307 feet above the river bed. These transactions were approved by the ICC in a Decision served July 19, 1968 in Finance Docket No. 24944, *Cincinnati, New Orleans & Texas Pacific Railway Co. Abandonment of Operations Between New River and Helenwood, Tenn.*, and Abandonment between New River and Robbins, Tenn., and in Finance Docket No. 24933, *New River Railway Co. – Lease and Operation (portion) – Cincinnati, New Orleans & Texas Pacific Railway Co.* The Helenwood to New River segment was left in place because it provided the only access to the New River Railway.

Harriman and Northeastern Railroad Company, Cincinnati, Burnside and Cumberland River Railway, Chattanooga Traction Company, New River Railway Company and NU Road, Inc. merged into CNOTP on March 31, 1970, pursuant to a decision of the Interstate Commerce Commission in ICC Finance Docket Nos. 25901, 25902, and 25903. Southern Railway Company had owned, directly or indirectly, a majority of the shares of CNOTP since 1897. It was only in 1954 that Southern acquired control of CNOTP, however, through acquisition of the CNOTP shares then owned by The Baltimore and Ohio Railroad Company. Some shares of CNOTP remained in the hands of the public even after Southern Railway Company acquired the B&O's shares. Southern acquired full control of CNOTP following the ICC Decision in April 1970 cited above.

Norfolk Southern Corporation, a non-carrier holding company, was incorporated in the Commonwealth of Virginia on July 23, 1980. An Agreement of Merger and Reorganization, dated July 31, 1980, was the basis for Norfolk Southern Corporation control of Norfolk and Western Railway Company and Southern Railway Company and



their subsidiaries. Norfolk and Western Railway Company was headquartered in Roanoke, Virginia. Southern Railway Company was headquartered in Washington, DC with a substantial number of its offices also in Atlanta, Georgia. Norfolk Southern Corporation, which established its corporate headquarters at Norfolk, VA on October 1, 1982, acquired control of Norfolk and Western Railway Company and Southern Railway Company on June 1, 1982, pursuant to approval granted by the Interstate Commerce Commission (ICC) in a decision dated March 19, 1982 in ICC Finance Docket No. 29430 (Sub-No. 1), *Norfolk Southern Corporation -- Control -- Norfolk and Western Railway Company and Southern Railway Company*, 366 I.C.C. 173.

Several books on the Norfolk and Western Railway Company and Southern Railway Company systems and the Cincinnati Southern Railway provide detailed information on their history and development to the time of the Norfolk Southern consolidation. They are: E. F. Pat Striplin, *The Norfolk and Western: A History* (Roanoke, VA: The Norfolk and Western Railway Co., 1981), Burke Davis, *The Southern Railway: Road Of The Innovators* (Chapel Hill, NC: University of North Carolina Press, 1985), E. A Ferguson, *Founding of the Cincinnati Southern Railway with an Autobiographical Sketch* (Cincinnati, OH: The Robert Clarke Company, 1905) and Charles G. Hall (editor), *The Cincinnati Southern Railway -- A History* (Cincinnati, OH: 1902).

Scott County was created in 1849 by the Tennessee General Assembly out of parts of Anderson, Campbell, Fentress, and Morgan Counties and named for General Winfield Scott (1786-1866), soldier in the War of 1812 and commander of U.S. troops in the Mexican War. The largest municipality in the county, Oneida, was incorporated in 1913. Oneida is served by CNOTP. Another railroad line, the Oneida and Western

Railway Company line between Oneida and Jamestown, TN, was abandoned in 1953.

In 1974, Congress created the Big South Fork National River and Recreation Area in Scott, Morgan and Fentress counties in Tennessee, and McCreary, Wayne and Pulaski counties in Kentucky. The park headquarters is located near the entrance to the Leatherwood Ford recreation site west of Oneida in Scott County. The establishment of this recreation area, along with the Bandy Creek Recreation Area in Scott County, has increased tourism and thus increased service jobs in the county. Scott County's population in 2000 was 21,127 according to the 2000 census. The Tennessee State Library and Archives has compiled a large bibliography of Tennessee Local History Sources with many books and publications about Scott County and adjacent counties. Lists of these books and publications can be found on the State Library and Archives web site.

Effective December 31, 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company. Norfolk and Western Railway Company became a wholly-owned subsidiary of Norfolk Southern Railway Company rather than a subsidiary of Norfolk Southern Corporation.

Pursuant to a notice of exemption filed in STB Finance Docket No. 33648, *Norfolk Southern Railway Company--Merger Exemption--Norfolk and Western Railway Company*, served August 31, 1998, Norfolk Southern Railway Company (NSR) merged Norfolk and Western Railway Company (NW) into NSR, effective September 1, 1998.

Norfolk Southern Corporation ("NSC"), parent to Norfolk Southern Railway Company ("NSR"), entered into a Transaction Agreement (the "Conrail Transaction Agreement") among NSC; NSR; CSX Corporation ("CSX"); CSX Transportation, Inc. ("CSXT"), a wholly-

owned subsidiary of CSX; Conrail Inc. ("CRR"); Consolidated Rail Corporation ("Conrail"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC, dated June 10, 1997, pursuant to which CSX and NSC indirectly acquired all the outstanding capital stock of CRR. The Conrail Transaction Agreement was approved by the Surface Transportation Board in a decision served July 23, 1998 in STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation*. The transaction was closed and became effective June 1, 1999.

As a result of the Conrail Transaction, Norfolk Southern Railway Company's rail operations grew to include some 7,200 miles of the Conrail system (predominately the former Pennsylvania Railroad), creating balanced rail transportation in the East to benefit customers and communities alike.

Abandonment of the Helenwood – New River – Sterling lines, and subsequent salvage of railroad materials from the Lines, will have no adverse effect on pre-historic, or historic archeological sites if there are any along the Lines. If any such sites existed immediately below the surface of the Lines, those sites would have been disrupted during construction of the Lines. Salvage operations, which take place on the surface of the land and involve picking up salvageable material, would not disturb any archaeological sites that might exist in the area.

The change contemplated in the operation of the subject 15.74 mile segment in Scott County, Tennessee is for the Cincinnati, New Orleans and Texas Pacific Railway Company to abandon the subject unprofitable lines of railroad and to the extent of its title to the real estate to deal with the right-of-way as ordinary real estate no longer

subject to a common carrier obligation.

(6) **Summary of Documents In Carrier's Possession That Might Be Useful for**

**Documenting a Structure That Is Found To Be Historic** - While plans may be available for the structures on the lines, it is most likely that any such plans are standard plans used for the construction of similar structures on the dates of construction.

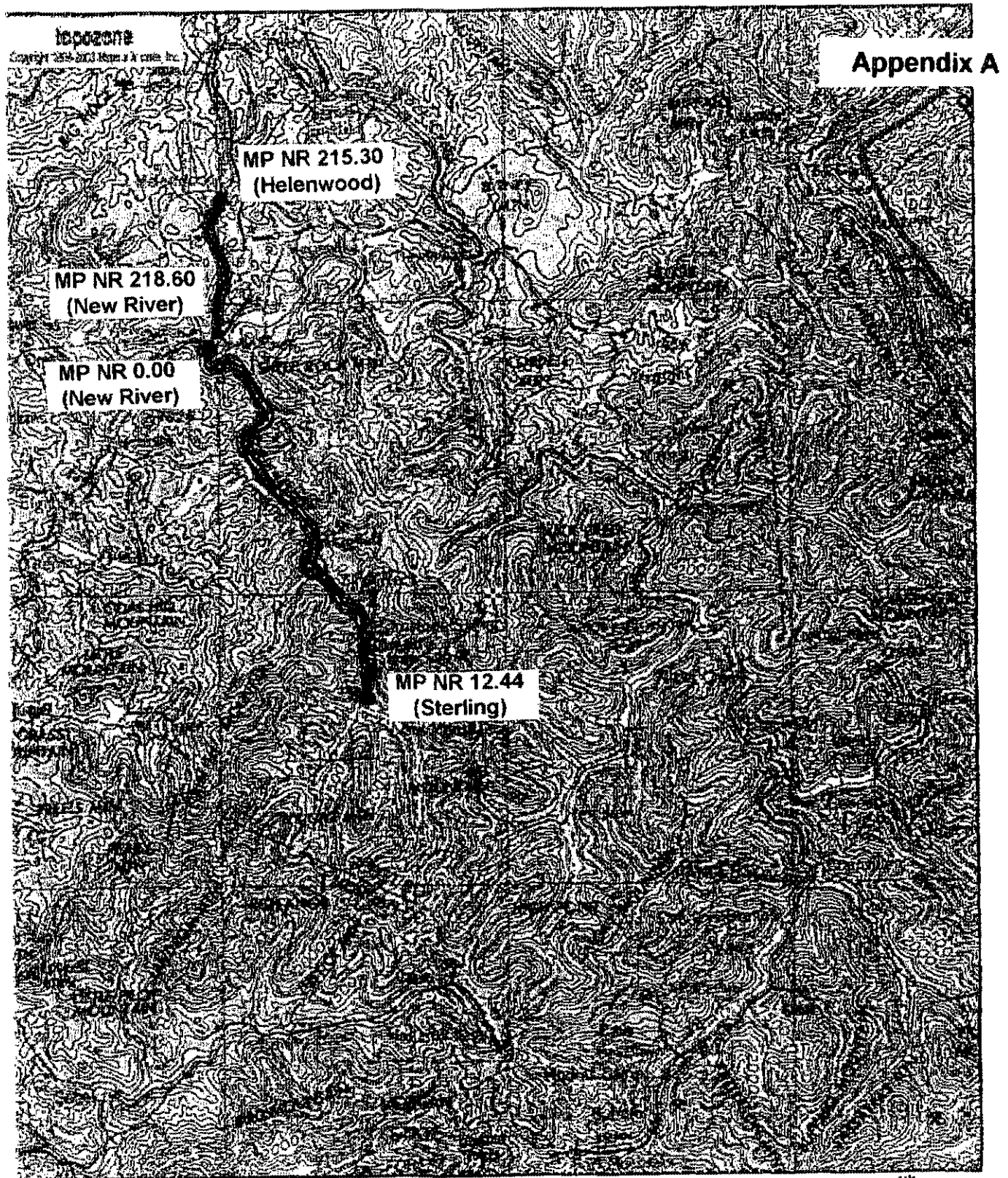
(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic**

**Places** – CNOTP's opinion is that neither the structures on the lines to be abandoned nor the lines themselves meet the criteria for listing in the *National Register of Historic Places*. The structures are bridges which are relatively short in length and ordinary in design and construction. The largest bridge on the lines was built in 1990. There is nothing that distinguishes the bridges from others in the region. They have no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the lines proposed for abandonment.

(8) **Subsurface Ground Conditions That Might Affect Archaeological Recovery --**

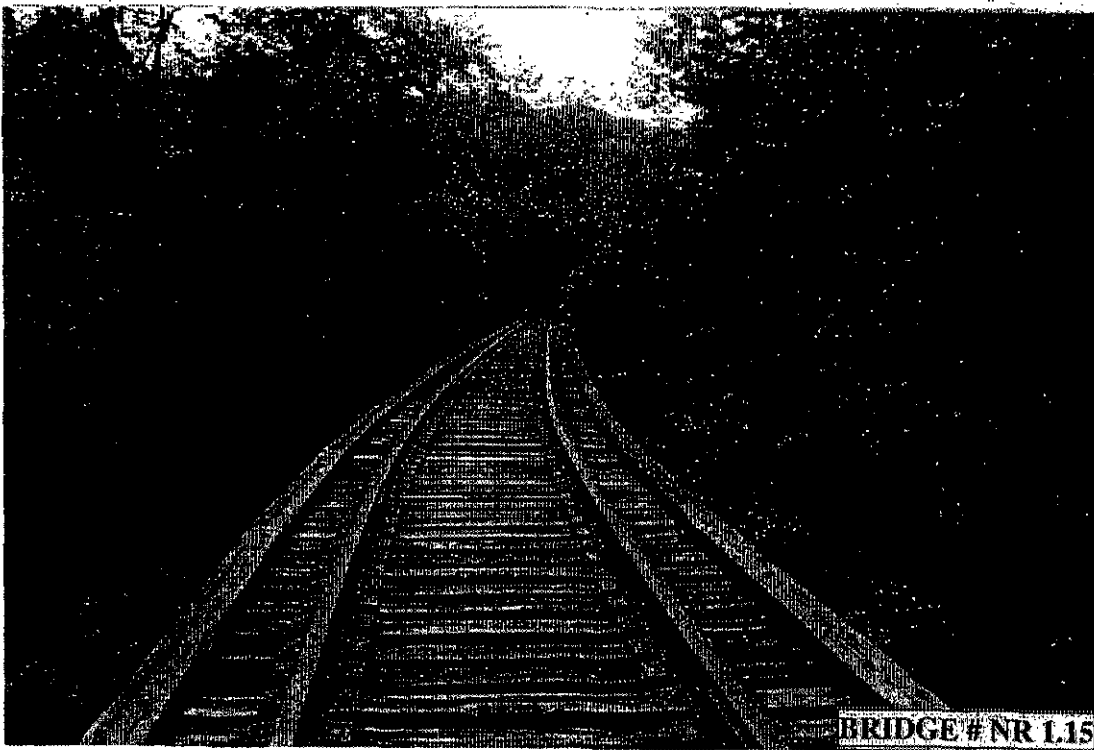
CNOTP is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery.

(9) **Follow-Up Information** - Additional information will be provided as appropriate.

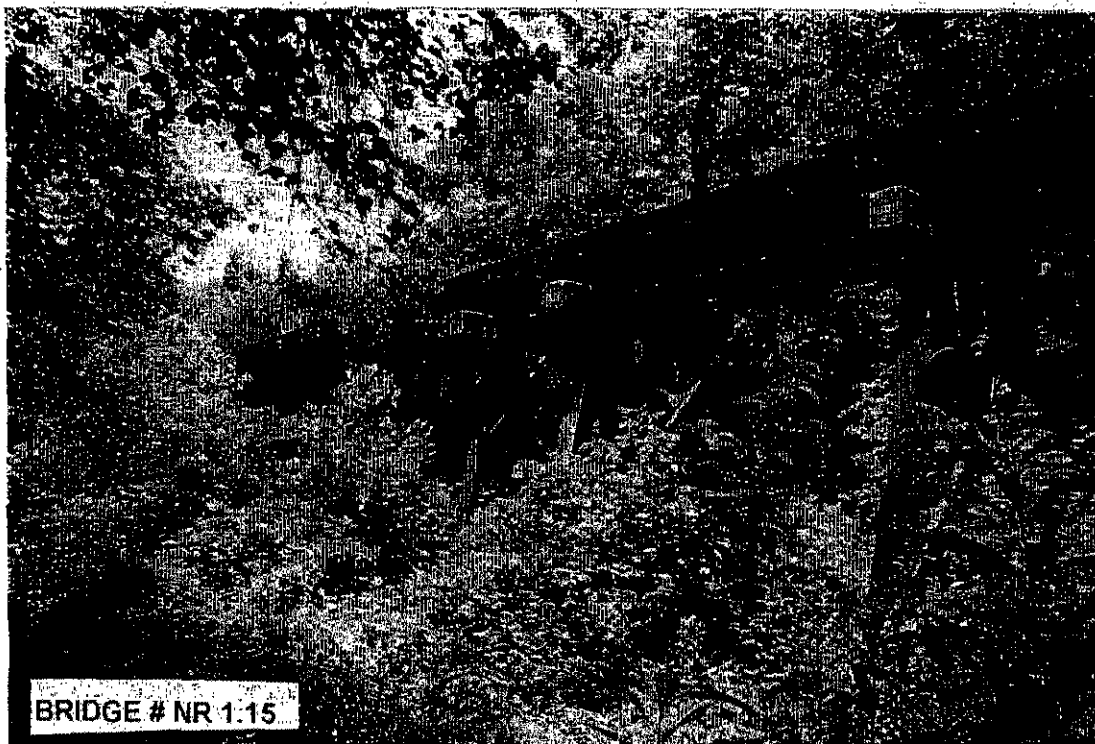
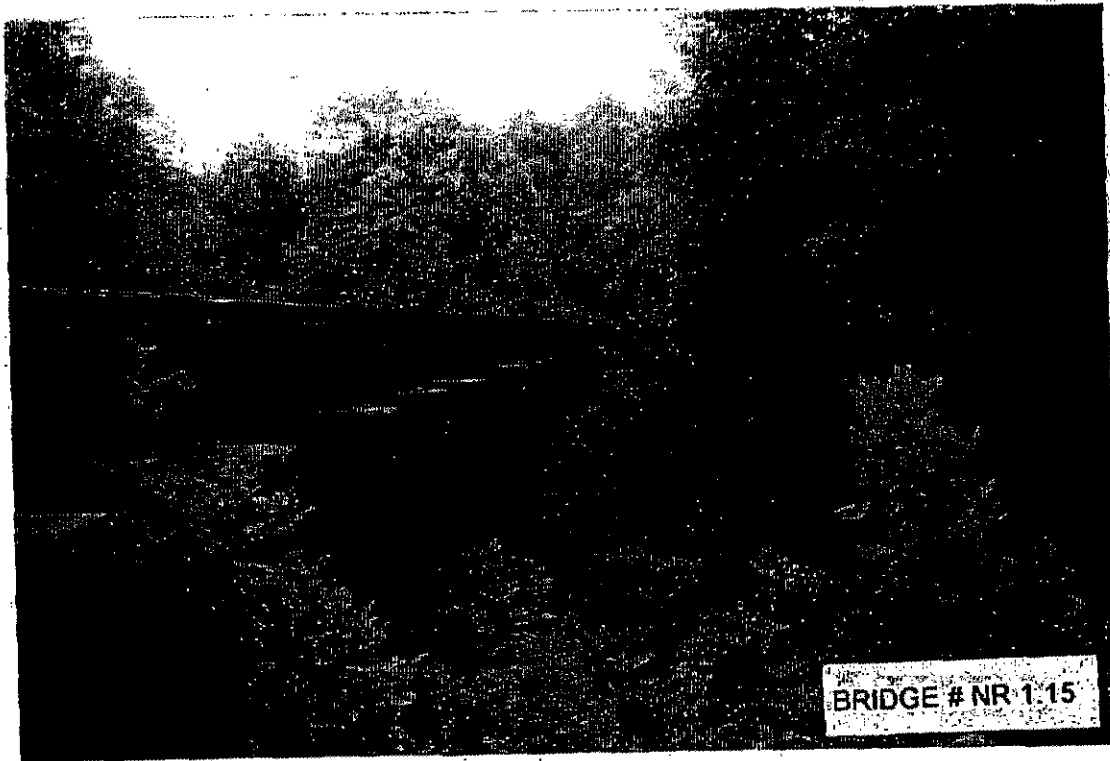


Norfolk Southern  
Proposed Abandonment  
MP NR 215.30 (Helenwood)-MP NR 218.60 (New River)  
MP NR 0.00 (New River)-MP NR 12.44 (Sterling)  
Scott County, Tennessee

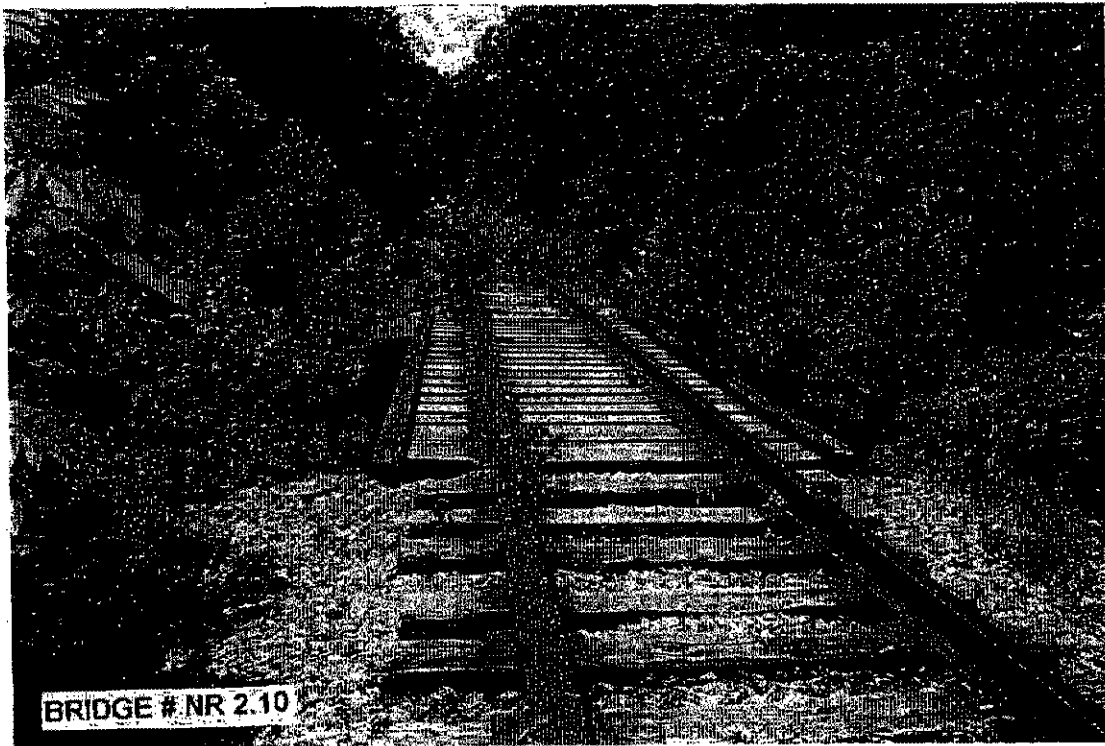
## Appendix B

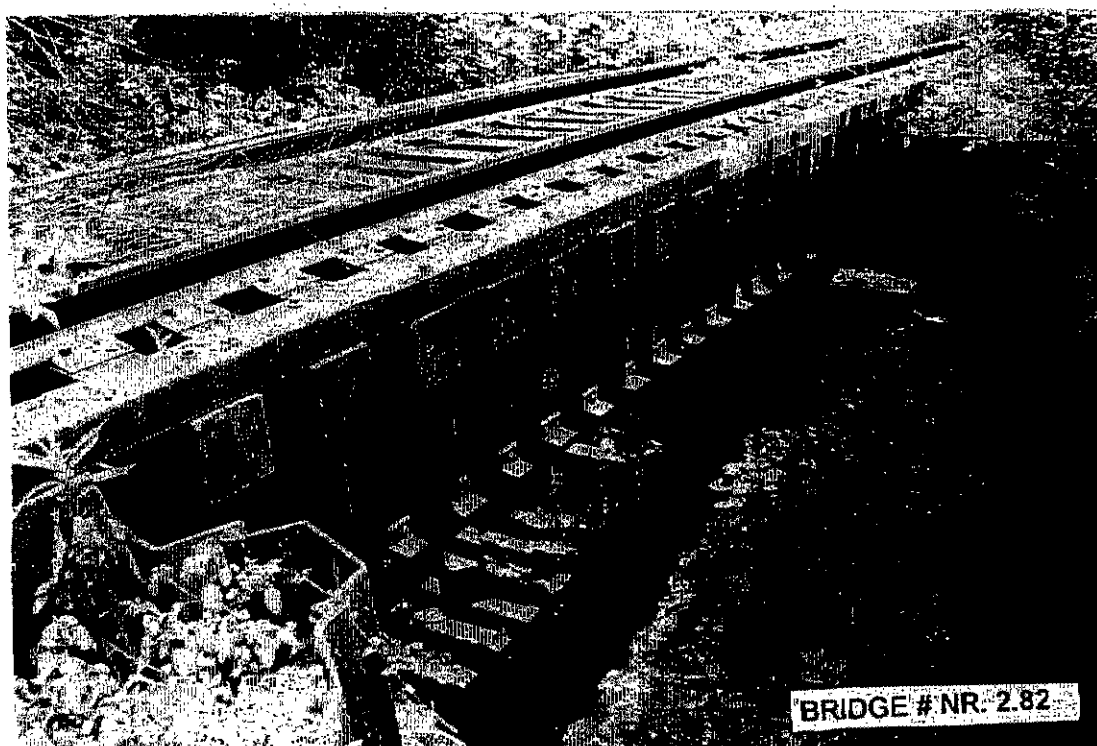




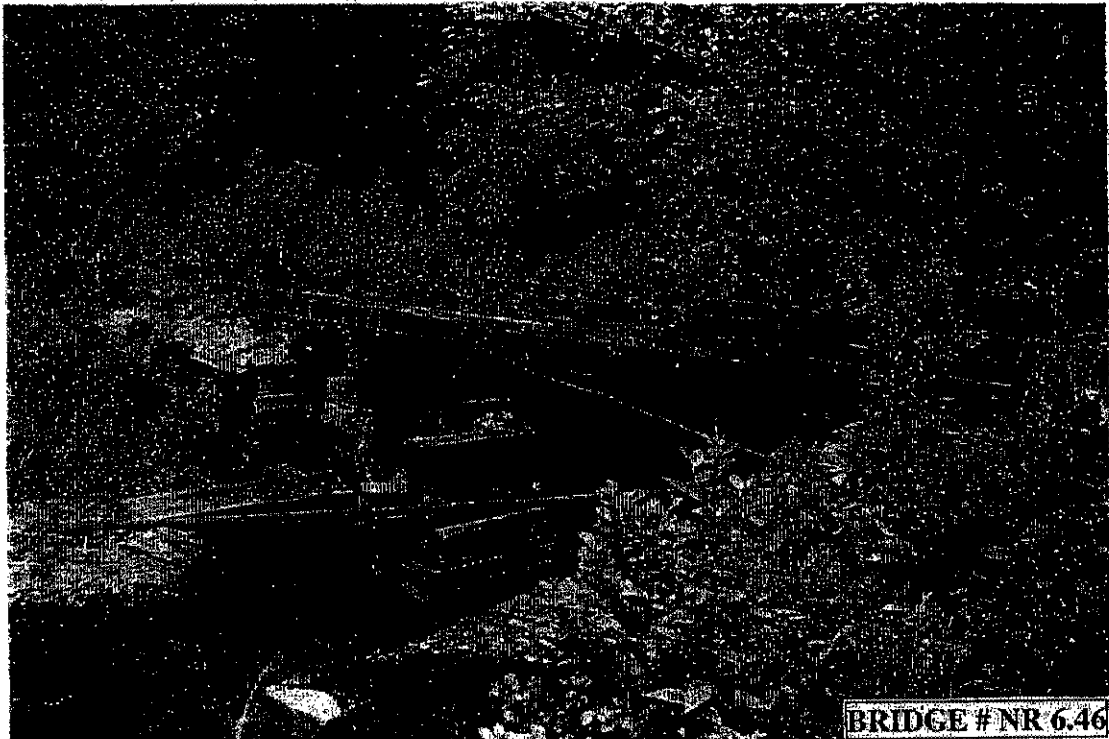






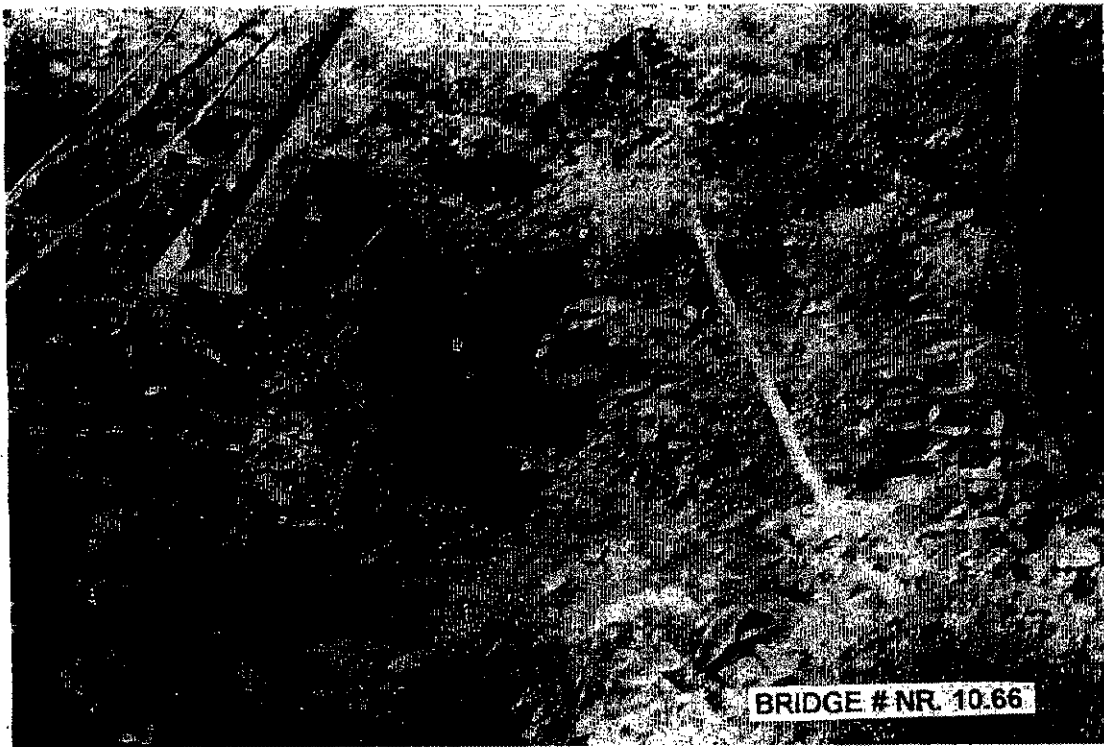


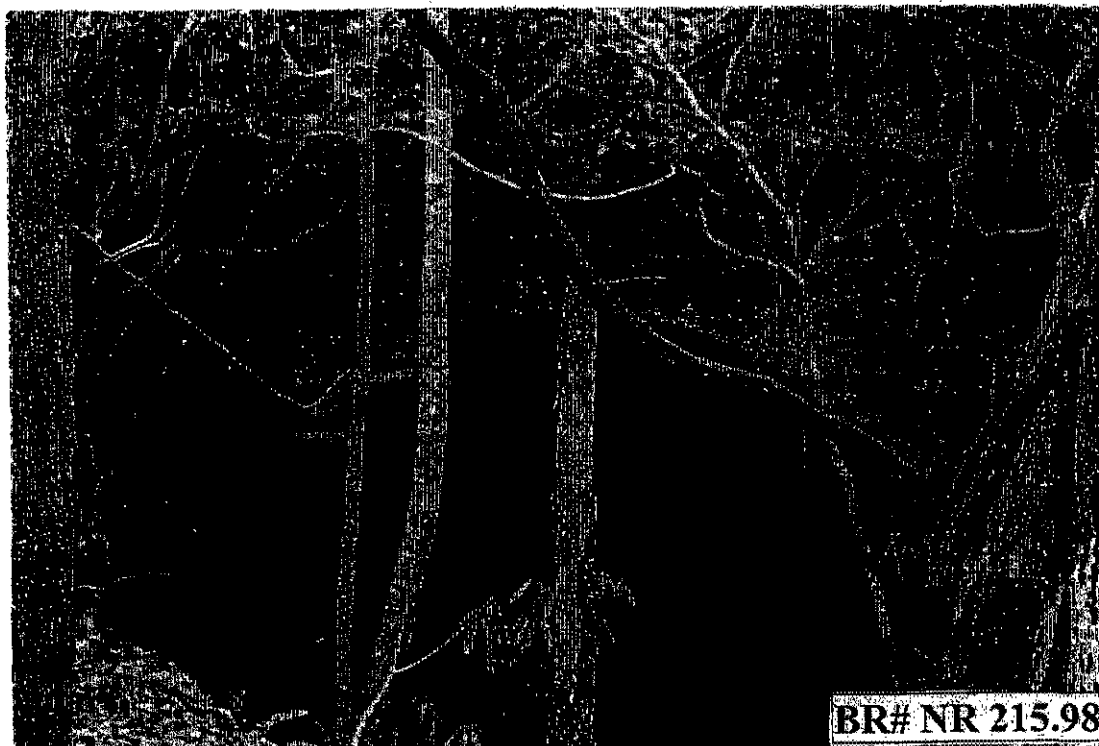






BRIDGE # NR 9.84











## Appendix C

### The Cincinnati, New Orleans and Texas Pacific Railway Company

#### Abandonment in Scott County, Tennessee

#### Bridge List

Milepost	Spans	Bridge Type	Deck Construction	Length in Feet	Year Constructed	Name of Crossing
NR 1.15	2	Deck Plate Girder/ Timber Trestle	Open	76	1910	New River
NR 2.10	1	Deck Plate Girder	Open	26	unknown	waterway
NR 2.82	1	Deck Plate Girder	Open	26	unknown	Sugar Hollow
NR 4.75	1	Pile Trestle	Open	14	1910	waterway
NR 6.46	1	Pile Trestle	Open	14	1910	Huntsville Branch
NR 9.84	1	Pile Trestle	Open	15	1910	Funks Branch
NR 10.66	1	Pile Trestle	Open	14	1910	Hutson Branch
NR 215.98	1	Concrete Arch	Ballast	20	unknown	waterway
NR 216.54	1	Concrete Box	Ballast	12	1918	Rosser Branch
NR 218.60	1	Steel Beam	Steel Ballast	89	1990	State Route 29

**Historic Report  
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-290 (Sub-No. 279X) was mailed via first class mail to the following parties on January 10, 2007:

Mr. Herbert L. Harper, Executive Director and  
Deputy State Historic Preservation Officer  
Tennessee Historical Commission  
2941 Leannon Road  
Nashville, TN 37243-0442

Mr. Russell Townsend, THPO  
Eastern Band of Cherokee Indians  
P. O. Box 455  
Cherokee, NC 28719



---

Marcellus C. Kirchner

January 10, 2007



Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191

**Marcellus C. Kirchner**  
Director Strategic Planning  
(757) 629-2679  
(757) 823-5807 FAX

January 10, 2007

Mr. Herbert L. Harper, Executive Director and  
Deputy State Historic Preservation Officer  
Tennessee Historical Commission  
2941 Lebanon Road  
Nashville, TN 37243-0442

RE: STB Docket No. AB-290 (Sub-No. 279X), Cincinnati, New Orleans and  
Texas Pacific Railway Company – Abandonment – in Scott County, Tennessee

Dear Mr. Harper:

The Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company soon expects to file with the Surface Transportation Board a Notice of Exemption seeking authority to abandon two contiguous lines of railroad: 3.30 miles between railroad mileposts NR 215.30 at Helenwood and NR 218.60 at New River and 12.44 miles between railroad mileposts 0.00 at New River and NR 12.44 near Sterling, in Scott County, Tennessee. Enclosed is a Historic Report describing the proposed action and any expected historic effects, as well as a map of the affected area, topographical maps, and photographs of the bridges on the lines.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, D. C. 20423-0001, Telephone (202) 565-1545, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated as soon as possible. Please refer your comments to me by mail at the above address or by email at [marc.kirchner@nscorp.com](mailto:marc.kirchner@nscorp.com).

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please do not hesitate to contact me.

Sincerely,

Marcellus C. Kirchner

Enclosures  
cc: James R. Paschall, Esq.



Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191

**Marcellus C. Kirchner**  
Director Strategic Planning  
(757) 629-2679  
(757) 823-5807 FAX

January 10, 2007

Mr. Russell Townsend, THPO  
Eastern Band of Cherokee Indians  
P. O. Box 455  
Cherokee, NC 28719

RE: STB Docket No. AB-290 (Sub-No. 279X), Cincinnati, New Orleans and  
Texas Pacific Railway Company – Abandonment – in Scott County, Tennessee

Dear Mr. Townsend:

The Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company soon expects to file with the Surface Transportation Board a Notice of Exemption seeking authority to abandon two contiguous lines of railroad: 3.30 miles between railroad mileposts NR 215.30 at Helenwood and NR 218.60 at New River and 12.44 miles between railroad mileposts 0.00 at New River and NR 12.44 near Sterling, in Scott County, Tennessee. Enclosed is a Historic Report describing the proposed action and any expected historic effects, as well as a map of the affected area, topographical maps, and photographs of the bridges on the lines.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, D. C. 20423-0001, Telephone (202) 565-1545, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated as soon as possible. Please refer your comments to me by mail at the above address or by email at [marc.kirchner@nscorp.com](mailto:marc.kirchner@nscorp.com).

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please do not hesitate to contact me.

Sincerely,

Marcellus C. Kirchner

Enclosures  
cc: James R. Paschall, Esq.



January 22, 2007

**TENNESSEE HISTORICAL COMMISSION**  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
2941 LEBANON ROAD  
NASHVILLE, TN 37243-0442  
(615) 532-1550

Mr. Marcellus C. Kirchner  
Norfolk Southern Corp.  
Three Commercial Place  
Norfolk, Virginia, 23510-2191

RE: STB, AB-290 SUB-NO 279X, UNINCORPORATED, SCOTT COUNTY

Dear Mr. Kirchner:

In response to your request, received on Tuesday, January 16, 2007, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process.

After considering the documents you submitted, we determine that **THERE ARE NO NATIONAL REGISTER OF HISTORIC PLACES LISTED OR ELIGIBLE PROPERTIES AFFECTED BY THIS UNDERTAKING**. We have made this determination either because of the specific location, scope and/or nature of your undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, we have no objections to your proceeding with your undertaking.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of consultation under Section 106 to the appropriate federal agency, which, in turn, should contact us as required by 36 CFR 800. If you represent a federal agency, you should submit a formal determination of eligibility and effect to us for comment. You may find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at [www.state.tn.us/environment/hist/sect106.shtm](http://www.state.tn.us/environment/hist/sect106.shtm). You may direct questions or comments to Joe Garrison (615) 532-1550-103. This office appreciates your cooperation.

Sincerely,

Richard G. Tune  
Interim Executive Director and  
Deputy State Historic  
Preservation Officer

RGT/jyg

PROOF  
OF  
PUBLICATION.

NOTICE OF INTENT TO  
ABANDON RAIL SERVICE

The Cincinnati, New Orleans, and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company (NSR), gives notice that on or about March 12, 2007, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting CNOTP's abandonment of a line of railroad that consists of two contiguous segments between mileposts NR-215.30 (Helenwood) and NR-218.60 (New River), and between mileposts NR-0.00 (New River) and NR-12.24 (Sterling), which traverses through United States Postal Service ZIP Codes 37755 and 37841, in Scott County, Tennessee. The line includes the former stations of Helenwood, New River, Highway, Jct. T. Pemberton, Hunter, Slick Rock, Brimstone and Sterling. The proceeding will be docketed as No. AB-290 (Sub No. 279X).

The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA) which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001 or by calling that office at 202-565-1545. Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be

Shelia Erwin being duly sworn, states that she is the Publisher of the SCOTT COUNTY NEWS, a newspaper published at ONEIDA, SCOTT COUNTY, TENNESSEE, and that the annexed

Notice of Intent to Abandon Rail Service--The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company (NSR), gives notice that on or about March 12, 2007, it intends to file

was published in said paper for one (1)

consecutive weeks, commencing with the issue

of February 15

20 07, ~~and continuing with the issue of~~

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Shelia Erwin

Sworn to before me this 20

day of February, 20 07

Carolyn Sue Chamber  
NOTARY PUBLIC My comm. expires 10-16-10

filed directly with the STB's Office of the Secretary, 1925 K Street, N.W., Washington, DC 20423-0001. [See 49 CFR 11.04.1(a) and 11.04.3(a)], and one copy must be served on applicant's representative. [See 49 CFR 11.04.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative. James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241 (757) 629-2759 (2-15-3mp)



Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191

**James R. Paschall**  
**Senior General Attorney**

(757) 629-2759

February 26, 2007

Mr. Gerald F. Nicely, Commissioner  
Tennessee Department of Transportation  
J. K. Polk Building, Suite 700  
Nashville, TN 37243

Regional Director  
National Park Service-Southeast Region  
100 Alabama Street, S. W.  
Atlanta, GA 30303

Ms. Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

Ms. Jan Matthews, Associate Director  
U.S. Dept. of the Interior-National Park Service  
Cultural Resources, Room 3126  
1849 C Street, N.W.  
Washington, DC 20240

U. S. Department of Agriculture  
Chief of the Forest Service  
Sidney R. Yates Federal Building  
1400 Independence Ave., SW  
Washington, DC 20250-0003

United States Department of Defense  
Military Traffic Management Command (MTMCTEA)  
Transportation Engineering Agency  
Railroads for National Defense Program  
720 Thimble Shoals Blvd., Suite 130  
Newport News, VA 23606-2574

Re: STB Docket No. AB-290 (Sub-No. 279X), Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly owned subsidiary of Norfolk Southern Railway Company – Abandonment, in Scott County, Tennessee

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Cincinnati, New Orleans and Texas Pacific Railway Company, (CNOTP) a wholly-owned subsidiary of Norfolk Southern Railway Company (NSR) hereby gives notice that on or about March 12, 2007, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit CNOTP's abandonment of a line of railroad that consists of two contiguous segments lying between mileposts NR 215.30 and NR 218.60 and between mileposts NR 0.00 and NR 12.44 in Scott County, Tennessee (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch  
Enclosure